APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,611	07/31/2003	Peter G. Webb	10021295-1	5564

7590 04/07/2006

AGILENT TECHNOLOGIES, INC.
Legal Department, DL429
Intellectual Property Administration
P.O. Box 7599
Loveland, CO 80537-0599

EXAMINER
MILLER, MARINA I

ART UNIT	PAPER NUMBER
1631	

DATE MAILED: 04/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>13 March 2006</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☒ The period for reply expires <u>3</u> months from the mailing date of the final rejection.

   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

      Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b) ☒ They raise the issue of new matter (see NOTE below);

   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

      NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: <u>*1,5-7,10-13 and 41-49*</u>.

   Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See Continuation Sheet.</u>

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____

13. ☐ Other: _____.

MARJORIE A. MORAN
PRIMARY EXAMINER

[signature] 3/30/06

Continuation of 3. NOTE: The addition of the new limitation, i.e., different instructions for reading or prosessing signal data corresponding to different requests and deletion the step obtaining signal data probes on a chemical array, raise a new issue under 35 USC 101, 102, 103, and 112, second paragraph that would require new considerations. Also, the addition of the limitation "reading or processing signal data from a different sub-array in at least TWO of repetitions, raise the issue of new matter.

Continuation of 11. does NOT place the application in condition for allowance because: As the proposed amendment is not entered, applicants' arguments with regard to the proposed claims are not persuasive.

Claims 1, 5-7, 10-13, and 41-48 were rejected under 35 USC 103(a) as being obvious over Cattell and Vankatesan. Applicants argue that Cattell does not disclose sub-arrays which are read/processed separately with different instructions retrievable with a different test request. Applicants' arguments have been considered, but are found not persuasive.

In response, it is noted that Cattelle discloses that the array layout information (e.g., for feature 12 on fig. 1) could indicate that a scanner needs not interrogate specific array addresses (i.e., the addresses that are processed represent a sub-array) (col. 12, lines 1-35). The layout information is provided by a user and retrieved from a plurality of instructions stored in a memory, as set forth in the previous office action. Thus, Cattell discloses processing a sub-array and retrieving instructions stores in a memory with different test requests.

Applicants state that claim 1, as amended, recites different instructions for processing the array, corresponding to different test requests wherein instructions are stored in the memory. As set forth above, as the proposed amendments are not entered, the argument directed to the limitation "different instructions for processing the array" is not persuasive. Thus, for the reasons stated above and in the previous office action, the examiner maintains that Cattell discloses steps of providing a test request, retrieving instructions from a plurality of instructions stored in a memory, and processing signals for a sub-array.

Applicants further argue with respect to claim 5 that Venkatesan does not disclose providing a test request for reading signals from an array and that there is no suggestion to repeat the process of Cattell. In response, it is noted that this is the rejection over the combination of references and the examiner maintains that Cattell discloses providing a test request for processing an array, as set forth above. Vankatesan discloses repeating instructions and motivation to combine the references was stated in the previous office action. Applicants further argue that even if there is a motivation to combine Cattelle and Vankateasn, one would read the same features of the array because it is dictated by the identifier and the layout information. In response, it is noted that features 12 on the array of fig. 1 may have different layout instruction to read different array addresses, and therefore the repetition of the steps of claim 1 does not necessarily mean reading the same features. Thus, the rejection of claims 1, 5-7, 10-13, and 41-48 over Cattell and Vankatesan is maintained for the reasons stated above and in the previous office action.

Claim 49 was rejected under 35 USC 103(a) as being obvious over Cattell, Vankatesan, and Anderson. Applicants argue that Anderson does not disclose retrieving instructions from a plurality of instructions stored in a memory, wherein instructions corresponding to different test requests are stored in a memory and each instruction corresponds to a different test request. The rejection is made over the combination of references. The examiner maintains that Cattell and Vancatesan make the method of claim 1 obvious. Anderson discloses labeled target molecules. Motivation to combine the references was provided in the Final office action. In addition, Anderson does disclose processing a sub-array and retrieving instructions with different test requests, as set forth in the office actions mailed 8/26/2005 and 1/27/2006. It is also noted, that applicants' arguments are directed (at least partially) to the proposed amended claims, and therefore are not persuasive, as set forth above. Thus, for the reasons stated above and in the previous office actions, the rejection is maintained